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EXAMINER

JACOBS, LASHONDA T

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/935,396	Applicant(s) GUSLER ET AL.	
	Examiner LASHONDA T. JACOBS	Art Unit 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

This is a Final Office Action in response to Applicants Amendment/request for Reconsideration on January 27, 2009. Claim 1 has been amended. Claims 1-22 are presented for further examination.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims **1-8** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-8 recite purely mental steps and must be tied to another statutory class (the thing or product) to which is tied, for example by identifying the apparatus that accomplishes the method steps or positively recites the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. A process claim that does not involve a transformation must involve, or be tied to, another category of statutory subject matter (i.e., a machine, manufacture, or composition of matter).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims **1-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Frye et al (hereinafter, "Frye", U.S. Pub. No. 2001/0032105) in view of Helzerman (U.S. Pat. No. 6,901,372).

As per claim **1**, Frye discloses a method, system and computer readable medium for automated project accountability comprising:

- determining at least one decision maker of a project preparation (abstract and paragraph 0030);
- determining a project readiness as a function of the project assessments (paragraphs 0034 and 0040).
- providing a readiness category rating for the readiness category (paragraph 0040);
- conducting a project assessment as a function of the decision process (paragraphs 0034 and 0040).

However, Frye does not explicitly disclose:

- determining a readiness category for the decision maker; and
- determining a decision process for the readiness category and readiness category rating.

Helzerman discloses a quality operation system for performing manufacturing projects comprising:

- determining a readiness category for the decision maker (col. 4, lines 41-64); and
- determining a decision process for the readiness category and readiness category rating (col. 3, lines 25-53 and col. 6, lines 22-49).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Frye by incorporating or implementing a quality operating system for developing and conducting concept feasibility and ready phases for a desired product to ensure that the manufacturing project is completed in a timely and efficient manner.

While the combined system of Frye and Helzerman substantially discloses a method for automated project accountability, it does not explicitly disclose an electronic forum. Nonetheless, an electronic forum is well known in the art as evidenced by Gauger.

In a similar art, Gauger discloses a network based interactive project management apparatus and method comprising an electronic forum (paragraphs 0196-0198, Gauger discloses a collaboration center which is used by key individuals to hold meetings, solve team problems and allow threaded discussions).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Frye in view of Helzerman to incorporate or implement an electronic forum for the purpose of allowing key individuals of a project to discuss and solve problems in a timely and efficient manner.

As per claim 2, Frye discloses the invention substantially as claims discussed above.

However, Frye does not explicitly disclose:

- assigning vote weighting to the decision maker.

Helzerman discloses a quality operation system for performing manufacturing projects comprising:

- assigning vote weighting to the decision maker (col. 2, lines 48-63 and col. 4, lines 41-64); and

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Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Frye by incorporating or implementing a quality operating system for selecting and assigning members of technology group project assignments for a desired product to ensure that the manufacturing project is completed in a timely and efficient manner.

As per claim **3**, Frye discloses:

- changing a project management application graphical interface, as a function of the project assessment (paragraphs 0033 and 0034).

As per claim **4**, Frye discloses:

- assigning a time limit (milestones, dates, etc.) in association with the project assessment and the project readiness (paragraph 0025).

As per claim **5**, Frye discloses:

- providing a collaborative environment for the decision maker (paragraph 0031).

As per claim **6**, Frye discloses:

- wherein the collaborative discussion mechanism is invoked for determining the readiness category, determining the decision process, conducting the project assessment, and determining the project readiness (paragraph 0031).

As per claim **7**, Frye discloses wherein the determination of at least one decision maker further comprises:

- providing project information from a project creator; accessing a data repository; retrieving a list from the data repository; selecting a project decision maker as a function of the project information and list; and selecting at least one contributing decision maker as a function of the project information, list, and project decision maker (paragraphs

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0031 and 0040, Frye discloses different stage approvers to review and decide whether the program (project) is ready to advance to the next stage).

As per claim 8, Frye discloses:

- providing technical information from the project creator (paragraph 0030); and
- providing security information from the project creator (paragraph 0033).

4. Claims 9-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frye et al (hereinafter, "Frye", U.S. Pub. No. 2001/0032105) in view of Helzerman (U.S. Pat. No. 6,901,372).

As per claims 9 and 16, Frye discloses a method, system and computer readable medium for automated project accountability comprising:

- determining at least one decision maker of a project preparation (abstract and paragraph 0030);
- determining a project readiness as a function of the project assessments (paragraphs 0034 and 0040).
- providing a readiness category rating for the readiness category (paragraph 0040);
- conducting a project assessment as a function of the decision process (paragraphs 0034 and 0040).

However, Frye does not explicitly disclose:

- determining a readiness category for the decision maker; and
- determining a decision process for the readiness category and readiness category rating.

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Helzerman discloses a quality operation system for performing manufacturing projects comprising:

- determining a readiness category for the decision maker (col. 4, lines 41-64); and
- determining a decision process for the readiness category and readiness category rating (col. 3, lines 25-53 and col. 6, lines 22-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Frye by incorporating or implementing a quality operating system for developing and conducting concept feasibility and ready phases for a desired product to ensure that the manufacturing project is completed in a timely and efficient manner.

As per claims **10** and **17**, Frye discloses the invention substantially as claims discussed above.

However, Frye does not explicitly disclose:

- assigning vote weighting to the decision maker.

Helzerman discloses a quality operation system for performing manufacturing projects comprising:

- assigning vote weighting to the decision maker (col. 2, lines 48-63 and col. 4, lines 41-64); and

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Frye by incorporating or implementing a quality operating system for selecting and assigning members of technology group project assignments for a desired product to ensure that the manufacturing project is completed in a timely and efficient manner.

As per claims **11** and **18**, Frye discloses:

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- changing a project management application graphical interface, as a function of the project assessment (paragraphs 0033 and 0034).

As per claims **12** and **19**, Frye discloses:

- assigning a time limit (milestones, dates, etc.) in association with the project assessment and the project readiness (paragraph 0025).

As per claims **13** and **20**, Frye discloses:

- providing a collaborative environment for the decision maker (paragraph 0031).

As per claims **14** and **21**, Frye discloses wherein the determination of at least one decision maker further comprises:

- providing project information from a project creator; accessing a data repository; retrieving a list from the data repository; selecting a project decision maker as a function of the project information and list; and selecting at least one contributing decision maker as a function of the project information, list, and project decision maker (paragraphs 0031 and 0040, Frye discloses different stage approvers to review and decide whether the program (project) is ready to advance to the next stage).

As per claims **15** and **22**, Frye discloses:

- providing technical information from the project creator (paragraph 0030); and
- providing security information from the project creator (paragraph 0033).

Response to Arguments

5. Applicant's arguments filed January 27, 2009 have been fully considered but they are not persuasive.

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The Office Notes the following arguments:

- a. Applicants' representative states that Examiner suggested amendment to claim.
- b. Applicants' argue that claim 1 now recites "electronic forum determining a readiness category for the decision maker" now satisfies the prerequisites set forth in *In re Bilski*.
- c. Applicants argue that Helzerman does not teach an electronic forum determining a readiness category for the decision maker because the electronic forum is the machine in the method step and Helzerman teaches engineers, managers and leaders therefore Helzerman teaches away from the claim 1 recited "electronic forum determining".
- d. Applicants argue that Helzerman does not teach a readiness category for the decision maker in claims 9 and 16.
- e. Applicants argue that Helzerman does not teach assigning vote weighting to the decision maker in claims 2, 10 and 17.

In response to:

- a. During the Applicants' Initiated Interview, the Examiner did not suggest the amendments for claim 1 instead the Examiner suggest to the applicants' representative that the claims needed to recite some type of hardware performing the recited states. The Examiner referred applicants' representative to page 4, lines 14-31 and page 5 of the specification, which specifically states a projector creator using a communication device performing these steps. The applicants' representative did not want to add the communication device to claims but however wanted to focus more on the collaborative mechanism which is referred in the specification as an electronic forum as performing these steps. Applicants' representative was advised that the electronic

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forum is not hardware and is not used to perform these steps according the pages listed above in the specification.

b. Applicants' amendment to claim does not satisfy the prerequisites set forth in *In re Bilski* because the electronic forum is not hardware but instead software.

c. Applicants argue that Helzerman does not teach electronic forum determining a readiness category for the decision maker and providing a readiness category rating for the readiness category. However, the Examiner disagrees. Helzerman discloses project leaders that are responsible for maintaining records while a project is alive. The project leaders also review project status and milestone to ensure that the phase is ready to be complete before moving to the next stage of the project. In order for a project leader determine that the project is ready for the next phase, he or she must be capable of making that decision (col. 3, lines 25-53, col. 4, lines 41-66 and col. 6, lines 22-49). Although applicants have amended the claims to state that electronic forum is determining a readiness category for the decision maker is not supported by the specification. On page 4, lines 14-31 and page 5 of the specification, this specifically states a projector creator using a communication device performing this step not an electronic forum. Therefore, Helzerman does teach electronic forum determining a readiness category for the decision maker.

d. Applicants argue that Helzerman does not teach determining a readiness category for the decision maker. However, the Examiner disagrees. Helzerman discloses project leaders that are responsible for maintaining records while a project is alive. The project leaders also review project status and milestone to ensure that the phase is ready to be complete before moving to the next stage of the project. In order for a project leader determine that the project is ready for the

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next phase, he or she must be capable of making that decision (col. 3, lines 25-53, col. 4, lines 41-66 and col. 6, lines 22-49). However, the Applicants have failed to define how a readiness category is determined in the claim language. By giving the broadest interpretation of the present application's claim language, Helzerman does teach determining a readiness category for the decision maker as recited in claims 9 and 16.

e. Applicants argue that Helzerman does not teach or suggest “assigning vote weighting” to the decision maker as recited in claims 2, 10 and 17. According to Appellants’ specification page 7, lines 11-16, a project decision maker designates a decision process by assigning vote weighting to each contributing and participant decision maker in which the decision process may include options as unanimous, simple majority, percentage majority, points system, super voter and other options and rules. The Examiner interprets assigning vote weighting as giving the participants working on the project the authority to make decisions according to their position held during the project. Helzerman teaches a quality operating system and method for performing manufacturing projects in which the project is divided into five phases (i.e. concept proposal, concept feasibility, a manufacturing concept ready, manufacturing concept ready, manufacturing implementation ready and replication). The project leaders are selected for managing the project and ensuring that the project is ready before moving to the next phase of the project. The project leaders also conduct milestone reviews to review the project status to ensure the project is progressing according to the project plan (abstract, col. 3, lines 44-62, col. 4, lines 41-64, col. 5, lines 66-67, col. 6, lines 1-12 and col. 9, lines 44-64). Since Helzerman teaches project leaders are selected for managing the project, which may include making decisions, determining if the project is ready to begin and setting milestones for each phase of the project then Helzerman

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teaches assigning vote weighting to the decision maker as recited in claims 2, 10 and 17.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LASHONDA T. JACOBS whose telephone number is (571)272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaShonda T Jacobs/
Primary Examiner, Art Unit 2457

ltj
February 9, 2009